

AMENDED IN SENATE AUGUST 20, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1957**

**Introduced by Assembly Member Knox**

February 17, 1998

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An act to amend *and repeal* Section 62.9 of the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1957, as amended, Knox. Cal-OSHA targeted inspection and consultation programs.

Existing law authorizes the levy and collection of assessments from employers to fund the Cal-OSHA targeted inspection and consultation programs. This authorization will be repealed on January 1, 1999, unless extended by statute.

This bill would extend the above authorization for employer assessments until January 1, ~~2004~~ 2000, and would delete obsolete provisions *and make other technical changes*.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 62.9 of the Labor Code is  
2 amended to read:

3 62.9. (a) The director shall levy and collect  
4 assessments from employers in accordance with this  
5 section. The total amount of the assessment collected

1 shall be the amount determined by the director to be  
2 necessary to produce the revenue sufficient to fund the  
3 programs specified by Section 62.7, except that the  
4 amount assessed in any year for those purposes shall not  
5 exceed 50 percent of the amounts appropriated from the  
6 General Fund for the support of the occupational safety  
7 and health program for the 1993–94 fiscal year, adjusted  
8 for inflation. The director also shall include in the total  
9 assessment amount the department's costs for  
10 administering the assessment, including the collections  
11 process and the cost of reimbursing the Franchise Tax  
12 Board for its cost of collection activities pursuant to  
13 subdivision (c). The insured employers and private  
14 sector self-insured employers that, pursuant to  
15 subdivision (b), are subject to assessment shall be  
16 assessed, respectively, on the basis of their annual payroll  
17 subject to premium charges or their annual payroll that  
18 would be subject to premium charges if the employer  
19 were insured, as follows:

20 (A) An employer with a payroll of less than two  
21 hundred fifty thousand dollars (\$250,000) shall be  
22 assessed one hundred dollars (\$100).

23 (B) An employer with a payroll of two hundred fifty  
24 thousand dollars (\$250,000) or more, but not more than  
25 five hundred thousand dollars (\$500,000), shall be  
26 assessed two hundred dollars (\$200).

27 (C) An employer with a payroll of more than five  
28 hundred thousand dollars (\$500,000), but not more than  
29 seven hundred fifty thousand dollars (\$750,000), shall be  
30 assessed four hundred dollars (\$400).

31 (D) An employer with a payroll of more than seven  
32 hundred fifty thousand dollars (\$750,000), but not more  
33 than one million dollars (\$1,000,000), shall be assessed six  
34 hundred dollars (\$600).

35 (E) An employer with a payroll of more than one  
36 million dollars (\$1,000,000), but not more than one  
37 million five hundred thousand dollars (\$1,500,000), shall  
38 be assessed eight hundred dollars (\$800).

39 (F) An employer with a payroll of more than one  
40 million five hundred thousand dollars (\$1,500,000), but

1 not more than two million dollars (\$2,000,000), shall be  
2 assessed one thousand dollars (\$1,000).

3 (G) An employer with a payroll of more than two  
4 million dollars (\$2,000,000), but not more than two  
5 million five hundred thousand dollars (\$2,500,000), shall  
6 be assessed one thousand five hundred dollars (\$1,500).

7 (H) An employer with a payroll of more than two  
8 million five hundred thousand dollars (\$2,500,000), but  
9 not more than three million five hundred thousand  
10 dollars (\$3,500,000), shall be assessed two thousand dollars  
11 (\$2,000).

12 (I) An employer with a payroll of more than three  
13 million five hundred thousand dollars (\$3,500,000) shall  
14 be assessed two thousand five hundred dollars (\$2,500).

15 (b) (1) In the manner as specified by this section, the  
16 director shall identify those insured employers having a  
17 workers' compensation experience modification rating of  
18 1.25 or more, and private sector self-insured employers  
19 having an equivalent experience modification rating of  
20 1.25 or more as determined pursuant to subdivision (e).

21 (2) The assessment required by this section shall be  
22 levied annually, on a calendar year basis, on those insured  
23 employers and private sector self-insured employers, as  
24 identified pursuant to paragraph (1), having the highest  
25 workers' compensation experience modification ratings  
26 or equivalent experience modification ratings, that the  
27 director determines to be required numerically to  
28 produce the total amount of the assessment to be  
29 collected pursuant to subdivision (a).

30 (c) The director shall collect the assessment from  
31 insured employers as follows:

32 (1) Upon the request of the director, the Department  
33 of Insurance shall direct the licensed rating organization  
34 designated as the department's statistical agent to  
35 provide to the director, for purposes of subdivision (b),  
36 a list of all insured employers having a workers'  
37 compensation experience rating modification of 1.25 or  
38 more, according to the organization's records at the time  
39 the list is requested, for policies incepting the year

1 preceding the year in which the assessment is to be  
2 collected.

3 (2) The director shall determine the annual payroll of  
4 each insured employer subject to assessment from the  
5 payroll that was reported to the licensed rating  
6 organization identified in paragraph (1) for the most  
7 recent period for which one full year of payroll  
8 information is available for all insured employers.

9 (3) On or before ~~March~~ *September* 1 of each year, the  
10 director shall ~~provide each insurer with a statement~~  
11 ~~identifying~~ *determine* each of ~~its~~ *the* current insured  
12 employers subject to assessment, and the amount of the  
13 total assessment for which each insured employer is  
14 liable. The ~~insurer~~ *director* immediately shall notify each  
15 insured employer, in a format chosen by the insurer, of  
16 the insured's obligation to submit payment of the  
17 assessment to the director within 30 days after the date  
18 the billing was mailed, and warn the insured of the  
19 penalties for failure to make timely and full payment as  
20 provided by this subdivision. ~~Each insurer shall report to~~  
21 ~~the director the date on which the notice required by this~~  
22 ~~paragraph was mailed.~~

23 (4) ~~In the event an insured employer notifies the~~  
24 ~~insurer that there is a disagreement as to the payment~~  
25 ~~obligation described in paragraph (3), the insurer shall~~  
26 ~~refer the employer to the department and notify the~~  
27 ~~director that the employer has made an objection.~~

28 (5) ~~—~~

29 (4) The director shall identify ~~to each insurer~~ any of its  
30 insured employers that, within 30 days after the mailing  
31 of the billing notice, fail to pay, or object to, their  
32 assessments. The ~~insurer immediately~~ *director* shall mail  
33 to each of these employers a notice of delinquency and a  
34 notice of the ~~director's~~ intention to assess penalties,  
35 advising that, if the assessment is not paid in full within  
36 15 days after the mailing of the notices, the director will  
37 levy against the employer a penalty equal to 25 percent  
38 of the employer's assessment, and will refer the  
39 assessment and penalty to the Franchise Tax Board for  
40 collection. The notices required by this paragraph shall be

1 sent by United States first-class mail. ~~Each insurer shall~~  
2 ~~report to the director the date on which the notices~~  
3 ~~required by this paragraph were mailed.~~

4 ~~(6)~~

5 (5) If an assessment is not paid by an insured employer  
6 within 15 days after the mailing ~~by the insurer~~ of the  
7 notices required by paragraph ~~(5)~~ (4), the director shall  
8 refer the delinquent assessment and the penalty to the  
9 Franchise Tax Board for collection pursuant to Section  
10 19290.1 of the Revenue and Taxation Code.

11 (d) The director shall collect the assessment directly  
12 from private sector self-insured employers. The failure of  
13 any private sector self-insured employer to pay the  
14 assessment as billed constitutes grounds for the  
15 suspension or termination of the employer's certificate to  
16 self-insure.

17 (e) The director shall adopt regulations implementing  
18 this section that include provision for a method of  
19 determining experience modification ratings for private  
20 sector self-insured employers that is generally equivalent  
21 to the modification ratings that apply to insured  
22 employers and is weighted by both severity and  
23 frequency.

24 (f) The director shall determine whether the amount  
25 collected pursuant to any assessment exceeds  
26 expenditures, as described in subdivision (a), for the  
27 current year and shall credit the amount of any excess to  
28 any deficiency in the prior year's assessment or, if there  
29 is no deficiency, against the assessment for the  
30 subsequent year.

31 (g) This section shall remain in effect only until  
32 January 1, ~~2004~~ 2000, and as of that date is repealed, unless  
33 a later enacted statute, that is enacted before January 1,  
34 ~~2004~~ 2000, deletes or extends that date.